

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

REGINA BOONE GARNER

PLAINTIFF

V.

NO. 4:13CV00170-JMV

COMMISSIONER OF SOCIAL SECURITY

DEFENDANT

ORDER AWARDING ATTORNEY FEES

Before the court is the claimant's motion [22] for payment of attorney fees pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412. In these proceedings, the claimant sought judicial review of the final decision of the Commissioner of Social Security, denying a claim for benefits. By Judgment [20] dated March 28, 2014, the court remanded this case to the Commissioner for further proceedings. The claimant now seeks attorney fees under the EAJA on the grounds that she was the prevailing party and the Commissioner's position was not "substantially justified."

By the motion and attached exhibits, the claimant requests an award of \$6,704.55 in attorney fees, representing 35.4 hours of attorney time at a rate of \$187.00 per hour for work performed in 2013 and \$189.50 per hour for work performed in 2014. The Commissioner objects to the amount requested, arguing that both the hourly rate and total number of hours expended by counsel are high compared to other experienced attorneys handling Social Security cases in Mississippi. In her reply to the Commissioner's response, Plaintiff addresses each of the Commissioner's arguments and seeks an additional \$379.00 for her defense of the fee petition.

This court recently found that fees have been awarded in this district for comparable work performed in 2012 and 2013 at rates near the rates requested in this case. *See Burton v. Commissioner*, No. 4:13cv54-JMV, Doc. [20]. Considering this the court finds the hourly rates requested in this case are not unreasonable. Additionally, the court has carefully considered Plaintiff's counsel's itemization of time spent on this case and Plaintiff's reply brief and finds the amount of time spent on this case is likewise not unreasonable. Ultimately, the court finds

the initial fee request of \$6,704.55 and the additional fee request of \$379.00 for defending the fee petition¹ are reasonable.

THEREFORE, IT IS ORDERED that the claimant's motion for payment of attorney fees under the EAJA is hereby **GRANTED**, and the Commissioner shall pay the claimant a total of \$7,083.55 for the benefit of her attorney.

THIS, the 14th day of May, 2014.

/s/ Jane M. Virden
U. S. MAGISTRATE JUDGE

¹See *Washington v. Barnhart*, 93 Fed. Appx. 630, 631 (5th Cir. 2004) (“Such an award is permitted under the EAJA.”).